

DOCKET NO. 3:99-CR-137-FDW

Defendant.

3. The full record before the Court reflects a defendant who certainly would have benefitted from Amendment 706 had it been in effect at the time of his sentencing, but whose prison

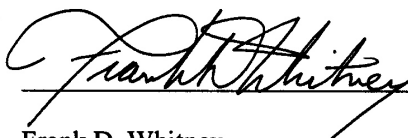
disciplinary record evidences a continued refusal to obey the law, including at least four citations that involve assault or fighting, which demonstrates that the eight years of incarceration that he has already served has not yet resulted in his rehabilitation.

4. Upon consideration of the sentencing factors set forth in 18 U.S.C. § 3553(a), the possible threat to public safety posed by the early release of a person with this defendant's criminal predispositions, and this defendant's post-sentencing conduct, the court finds:

- a. That the defendant should receive some benefit from the retroactive application of Amendment 706, but that a reduction to 138 months is inappropriate; and
- b. That a sentence of **154 months** is adequate, but no greater than necessary, to accomplish the objectives of sentencing, while a further reduction would frustrate those objectives;¹ and
- c. That this sentence is within the amended guideline range applicable to this Defendant by operation of Amendment 706.

An appropriate Order shall issue separately.

Signed: October 8, 2008


Frank D. Whitney
United States District Judge



¹The Court notes that it is not required under Fourth Circuit case law to undertake an exhaustive analysis of all of the § 3553(a) factors in this Order. See United States v. Legree, 205 F.3d 724, 728-29 (4th Cir. 2000).